

BOARD OF ZONING APPEALS
MINUTES
JULY 26, 2005

The regular meeting of the Board of Zoning Appeals of the City of Wichita, Kansas was held at 1:30 p.m., on July 26, 2005, in the Planning Department Conference Room, Tenth Floor of City Hall, 455 N. Main, Wichita, Kansas.

The following board members were in attendance:

JAMES RUANE, ERMA MARKHAM, BICKLEY FOSTER, DWIGHT GREENLEE, STEVEN ANTHIMIDES, and MICHAEL GISEK.

HERB SHANER – Office of Central Inspection present.

The following Planning Department staff members were present:

DALE MILLER, Secretary.

ROSE SIMMERING, Recording Secretary.

RUANE I think it would really be a very nice gesture for the City to show its appreciation for the citizen volunteers who serve on all of these Boards for the City Clerk to be at these first meetings when we need to be sworn in and make it their job to be here and to take care of those responsibilities for us. This would avoid what has happened today and not have these newly appointed volunteers have to make another special trip down to City Hall and spend an hour or more of their time to get sworn in.

DICKGRAFE I think the problem today may have been that it is a Tuesday and the City Clerk is in the City Council workshop and I am making an assumption that it is why she is not available this afternoon.

RUANE My point is that when you send out the letter saying that you are newly elected and your first meeting will be July 26th, read this stuff over and you be asked to sign this in front of the Clerk and she will swear you in at the outset of that meeting. But since I am not sworn in I am going to have to abstain from every action and I do not feel comfortable chairing the meeting.

DICKGRAFE I think given the situation that is appropriate, unfortunately.

FOSTER I am going to have to do the same thing then, I went up there and they were not there.

DICKGRAFE But your term did not expire, you were reappointed when your term was not up, where in Mr. Ruane's case his term was up and he was due to be reappointed. What happened in your case Mr. Foster was Council member Fearey reappointed you when your term was not up, in my legal opinion that does not change your term or your status as a valid and active member of the Board. But you can abstain if you think you need to Mr. Foster. I guess that comes to who is the Vice Chair?

MILLER Mr. Roger's was the Vice Chair, so we don't technically have a Vice Chair, so we would at least if the intention is to put off elections until the next meeting is, we would need to have someone appointed temporarily to conduct today's affairs.

Item 1

MARKHAM moved, GREENLEE seconded to appoint Bickley Foster as temporary Chair for our meeting today.

MOTION carried 5-0-1.

FOSTER moved, GREENLEE seconded to defer the Election of Officers until the next BZA meeting and encourage Council member Martz to make an appointment to this Board so we will have a complete Board.

MOTION carried 5-0-1. (RUANE abstains)

MARKHAM Will it be possible for the BZA members to be installed and sworn in before the next BZA meeting?

FOSTER Is the clerk returning after this meeting sometime that is what I was told.

MARKHAM So after the meeting can they go and get sworn in or anytime before the next meeting?

DICKGRAFE Yes those individuals that have been appointed but we are still short one appointment correct?

SIMMERING Yes, Council member Martz appointment.

Item 2

GREENLEE moved, MARKHAM, seconded to approve May 24, 2005 meeting minutes.

MOTION carried 5-0-1. (RUANE abstains)

Item 3

DALE MILLER, Planning staff presented the staff report and slides. Staff recommended approval, subject to conditions, in the following staff report.

SECRETARY'S REPORT

CASE NUMBER:	BZA2005-00033
OWNER/APPLICANT:	BCS Development LLC c/o Randy Stepanek
AGENT:	Marvin Schellenberg
REQUEST:	Variance to Section 24.04.193.1. of the Sign Code to increase the maximum area of a ground sign from 98.72 square feet to 192 square feet.
CURRENT ZONING:	"NR" Neighborhood Retail

SITE SIZE: 1.03 acres
LOCATION: East of Maize Road, north of Maize Court
(2556 North Maize Court)

JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The application area is a 1.02-acre platted – Chadsworth Plaza Addition - site zoned “NR” Neighborhood Retail that is located north of Maize Court, east of Maize Road. Chadsworth Plaza Addition is a four lot addition with three different zoning districts assigned to the four lots. NR, Neighborhood Retail, GO, General Office and NO, Neighborhood Office. Maize Court provides access to the eastern most three lots.

Maize Court is a cul-de-sac street containing a median (Reserve B) that connects to Maize Road, and heads east a short distance. A 96 square-foot, 20-foot 5-inch tall entry monument sign has previously been located in the median that counts against the total allowed area (98.72 square feet) of ground or pole signage allowed on the application area. The applicant is seeking to add 93.28 square feet of additional sign area to be located on a second (allowed by code) multi-tenant 20-foot 5-inch tall 96 square-foot pole or ground sign. The sign is to be located in the northwest corner of the site.

The sign code allows individual tenants in a multi-tenant zoning lot sharing the same sign structure to have up to 24 square feet each, up to a maximum of 96 square feet. Sign height is limited to 22 feet. Only one ground or pole sign is permitted for any office or business, however when more than one business is located on a zoning lot, additional signs may be permitted when a distance separation of 150 feet along the street frontage is maintained, and maximum sign area allowed on multi-tenant lots cannot exceed .5 square feet times the frontage. The additional requested sign meets the separation requirement, however, the lot is restricted to a maximum of 98.72 square feet allowed for the zoning lot. With the existing 96 square foot sign located in the median there is only 2.72 square feet of additional signage available without an adjustment or variance. The applicant is seeking to add an additional 93.28 square feet of sign area to the zoning lot.

The variance requested is to Section 24.04.193.1. of the Sign Code to increase the maximum area of a ground signage permitted from 98.72 square feet to 192 square feet to be located on two signs with no individual ground or pole sign to exceed 96 square feet.

ADJACENT ZONING AND LAND USE:

NORTH	“SF-5” Single-family; large-lot residential
SOUTH	“SF-5” Single-family; residential
EAST	“SF-5” Single-family; residential
WEST	“LC” Limited Commercial; developing commercial

The five criteria necessary for approval apply to all variances requested.

UNIQUENESS: It is the opinion of staff that this property is somewhat unique, inasmuch as the proposed signage is for multiple-businesses and lots located along a cul-de-sac. Three of the lots do not have section line road frontage and without the proposed signage it could be difficult to find the businesses.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the Maize Road is a rapidly development commercial corridor containing a multitude of signs. The proposed signage meets setback requirements and height limitations, which should minimize any negative impacts to adjacent property.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the sign regulations will constitute an unnecessary hardship upon the applicant, given the site's rectangular shape with the narrow distance fronting the section line road and the cul-de-sac access to the easternmost three lots.

PUBLIC INTEREST: It is the opinion of staff that the requested variances would not adversely affect the public interest, inasmuch as the signage is tasteful in design, is of an appropriate scale in relation to the size of the property and proposed businesses.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variances requested would not oppose the general spirit and intent of the Sign Code inasmuch as the signage will make it easier to locate the facility and the services provided within the facility while balancing these identification needs with the needs for high-quality community aesthetics.

RECOMMENDATION: It is staff's opinion that the proposed signage is appropriate. Should the Board determine that conditions necessary to the granting of the variances exist, then it is the recommendation of the Secretary that the variances to increase the area of ground or pole signs be GRANTED, subject to the following conditions:

1. All signage on the subject property shall conform to the requirements of the Sign Code except that there be a variance granted to permit ground or pole signage up to 192 square feet to be located on two signs with no individual ground or pole sign to exceed 96 square feet
2. The signs permitted by the variances shall be placed in the general location illustrated on the approved site plan and shall be of a design, size, and height illustrated on the approved elevation drawings.
3. The applicant shall obtain all permits necessary to construct the signage and the signage shall be erected within one year of the granting of the variances, unless such time period is extended by the BZA.
4. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

MILLER The applicant has indicated that they would like to have Condition #3 amended and suggest that the sign be erected within *two* years. Staff is not opposed with a two year

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extensions but we would be concerned with a longer term because it seems like when we have things in limbo, the UZC gets changed and development patterns change, and then stuff that got approved but not installed then it can create a problem but we don't have a problem with a two year delay on this case.

FOSTER The applicant mentioned something about the sign being rotated, was that any issue at all? They talked about turning it perpendicular to Maize Road that was not an issue to any regulations?

MARKHAM The direction of the sign?

MILLER That was not an issue for staff.

MARVIN SCHELLENBERG, applicant I will be happy to answer any questions today.

FOSTER Mr. Schellenberg, are you in agreement with the staff report and the revised Condition #3?

SCHELLENBERG Yes. That will work well on my time frame.

FOSTER The item in your write up, the reason for both the timing that Dale had mentioned, and the reasons for the extra sign is the nature of the commercial that you want to put on there?

SCHELLENBERG That is correct, any national franchise is going to want to have more visibility, and the existing sign that we just installed there will be eventually three office buildings, and then the retail. If you will notice the sign has 3 points, each building gets two, and two buildings get three, and one gets two, and that means there will not be any left for the very first pad site which will be for the retail and that is why we are needing the additional signage.

GREENLEE I want to clarify the perpendicular and parallel, and that the face of the sign will be facing south and north correct?

SCHELLENBERG Yes, we do not want the sign to be parallel with Maize Road, thus providing a lot more visibility.

MARKHAM So perpendicular is to Maize Road?

SCHELLENBERG Correct.

FOSTER In addition to the points that the staff has made, that is a very wide street out there, and the area across the street has deep lots way back in, so you not only are not bothered by the land uses on either side but the width of the street, and the depth of the lots discourages any problems across the street in terms of visual problems.

MARKHAM I would like a clarification on the multiple zoning within this development.

SCHELLENBERG The color-coding is not correct on the map. The first lot is neighborhood retail, the second one was general office, and then the other two are actually neighborhood office.

FOSTER Was the ideal there to seek the lowest intensive use?

SCHELLENBERG I think the purpose was that because it is next to a residential area the deeper we got into the development they restricted the uses which is a good thing to do when it is right in a residential area like that so it is more restrictive the deeper you get into the cul-de-sac.

FOSTER I would say that is a good reason for uniqueness right there.

MARKHAM moved GREENLEE seconded, That the Board accept the findings of fact as set forth in the Secretary's Report; and that all five conditions set out in Section 2.12.590(b) of the City Code as necessary for the granting of a variance have been found to exist and that the variance be granted subject to the conditions set out in the Secretary's report and change Condition #3 and extend the time to two years.

MOTION carries 5-0-1.

Item 4

HERB SHANER OCI report. BZA2003-49 - City of Wichita Housing Services Department c/o Mark Stanberry, (owner/applicant) pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to Section IV-A.4. of the Unified Zoning Code to reduce the parking requirement from 141 spaces to 73 spaces on property zoned "LI" Limited Industrial and "GC" General Commercial, generally located north of 2nd Street North and east and west of Riverview. (307 and 332 N. Riverview) They have met all requirements.

FOSTER Were the agreements submitted for these unusual parking arrangements?

SHANER Yes.

FOSTER Are they starting up the ideal of putting in the baseball diamonds up northeast and I am wondering if whether the parking is working out there or not.

SHANER The last I knew the City was trying to decide whether they were going to have their own people do it or have contractors put up bids for the job for that complex out there.

GREENLEE Was that a Park Board project or a School Board project?

SHANER That was a School Board project.

Meeting adjourned 1:54 p.m.